

IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

B.P.J.,

Plaintiff-Appellant,

v.

WEST VIRGINIA STATE BOARD
OF EDUCATION, *et al.*,

Defendants-Appellees.

No. 23-1078

MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE*

Amici Curiae Public Advocate of the United States, America's Future, U.S. Constitutional Rights Legal Defense Fund, One Nation Under God Foundation, Fitzgerald Griffin Foundation, and Conservative Legal Defense and Education Fund hereby move for leave to file a brief *amicus curiae* in support of Defendants-Appellees. It is hereby stated as follows:

1. All parties have consented to the filing of this *amicus* brief, except for Defendant-Appellant West Virginia Second School Activity Commission which took no position on *amici*'s request for consent.

2. As stated more fully in the attached brief, *amici curiae* have extensive experience with respect to the issues presented by this case, and have an

significant interest in the outcome of this case. These *amici* filed an *amicus curiae* brief in a case involving related issues pending before the Second Circuit on rehearing *en banc* on March 30, 2023 in *Soule v. Connecticut Association of Schools*, No. 21-1365.

3. *Amici* believe that this brief will address relevant information not covered by the parties and be of assistance to the Court in this case.

4. This *amicus* brief is being filed seven days after the time set by the Court's order for the Defendants-Appellees' brief. Thus, it is believed that no party will be prejudiced by the filing of this brief.

WHEREFORE, we respectfully request that this Court grant leave to file an *amicus curiae* brief in support of Defendants-Appellees.

Respectfully submitted,

/s/ William J. Olson

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May 3, 2023

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that service of the foregoing Motion for Leave to File Brief *Amici Curiae*, was made, this 3rd day of May 2022, by the Court's Case Management/ Electronic Case Files system upon the attorneys for the parties.

/s/ William J. Olson
William J. Olson
Attorney for *Amici Curiae*